

Petitioner GR Energy Services - Ex. 1017, p. 1

- 2) **for each asserted claim, a specific and separate identification of each accused apparatus, product, device, process, method, act, or other instrumentality (“Accused Instrumentality”) of each opposing party, including where possible:**
 - 1) **each product, device, and apparatus identified by name or model number, and**
 - 2) **each method or process identified by name, any product, device, or apparatus that, when used, allegedly results in the practice of the claimed method or process;**

Canatex alleges that Wellmatics’ making, offering for sale, selling, and using of the PHIRE Escape release tool infringes each of the asserted claims.

Canatex alleges that any use of the PHIRE Escape release tool, including by GRW, infringes each of the asserted claims.

- 3) **a chart identifying specifically where each element of each asserted claim is found within each Accused Instrumentality, including for each element that is allegedly governed by 35 U.S.C. § 112(f), the identity of the structures, acts, or materials in the Accused Instrumentality that performs the claimed function;**

A chart based on the current information available to Canatex is attached as Exhibit A. Please note that this chart may include information that Defendants have designated as “Confidential” or “Confidential-Outside Attorneys’ Eyes Only” pursuant to the protective order currently entered in this action. It does not contain any of Plaintiff’s confidential materials.

- 4) **for each Accused Instrumentality and each element of each asserted claim, identification of whether the element is claimed to be literally present or present under the doctrine of equivalents. For any claim under the doctrine of equivalents, the Infringement Contentions must identify the structure or step in the Accused Instrumentality that is asserted to be equivalent;**

Canatex contends that all asserted claim elements are literally present. To the extent Defendants assert any claim element is not literally present, Canatex reserves the right supplement its contentions in response to such assertions..

- 5) for each claim that is alleged to have been indirectly infringed, an identification of any direct infringement and a description of the acts of the alleged indirect infringer that contribute to or are inducing that direct infringement. Insofar as alleged direct infringement is based on joint acts of multiple parties, the role of each party in the direct infringement must be described.**

To the extent Wellmatics contends it does not directly infringe, they would nonetheless indirectly infringe. Any use or full assembly of the PHIRE Escape constitutes direct infringement. GRW both fully assembles and uses the PHIRE Escape and thus directly infringes, as would any other company that uses the PHIRE Escape in the field. Wellmatics induces infringement by providing instructions to customers on how to both assemble and use the PHIRE Escape, who then assemble and use the PHIRE Escape in violation of the Asserted Claims. Similarly, Wellmatics contributorily infringes by providing the PHIRE Escape (either assembled or disassembled, with or without the ignitor) to customers. The components of the PHIRE Escape provided by Wellmatics have no substantial non-infringing uses. For example, the PHIRE Escape components must be assembled by a customer for use, including by placing an ignitor or other combustible within the PHIRE Escape.

- 6) for any patent that claims priority to an earlier application, the priority date to which each asserted claim allegedly is entitled;**

All asserted claims are entitled to a priority date of August 30, 2016.

- 7) for each patent-in-suit, the party's contention as to the applicability of pre- or post-AIA law regarding 35 U.S.C. § 102 and the basis for that contention; and**

Canatex contends that post-AIA law applies to the patent-in-suit.

- 8) **if a party claiming patent infringement wishes to preserve the right to rely, for any purpose, on the assertion that its own apparatus, product, device, process, method, act, or other instrumentality practices the claimed invention, the party must identify, separately for each asserted claim, each such apparatus, product, device, process, method, act, or other instrumentality that incorporates or reflects that particular claim.**

Canatex's BRT 1.0 and 2.0 release tool practices at least claims 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19.

B. Document Production Accompanying Disclosure (L.P.R. 3-2)

Pursuant to Local Patent Rule 3-2, the required categories of documents are produced with the disclosure of asserted claims and preliminary infringement contentions. Pursuant to L.P.R. 3-2(b), the Bates numbers corresponding to each category are provided below:

- 1) **documents (e.g., contracts, purchase orders, invoices, advertisements, marketing materials, offer letters, beta site testing agreements, and third-party or joint development agreements) sufficient to show each discussion with, disclosure to, or other manner of providing to a third-party, or sale of or offer to sell, or any public use of, the claimed invention before the application date for the patent-in-suit;**

Documents sufficient to show disclosures, sales, offers, or public use before the priority date of the asserted claims are produced with beginning bates numbers CANATEX001276-1290, CANATEX0024-2699 and CANATEX003984.

- 2) **for any patent-in-suit that may be subject to pre-AIA law, documents evidencing the conception, reduction to practice, design, and development of each claimed invention, which were created on or before the application date for the patent-in-suit or the priority date identified under P.R. 3-1(e), whichever is earlier;**

This requirement does not apply because the asserted patent is not subject to pre-AIA law.

3) a copy of the file history for each patent-in-suit;

The file history for the patent-in-suit is produced with beginning bates number CANATEX004733.

4) license agreements for the patents-in-suit; and

License agreements related to the patent-in-suit are produced with beginning bates numbers CANATEX004052 and CANATEX003994.

5) documents evidencing the chain of title of the patents-in-suit.

Documents evidencing the chain of title of the asserted patent are produced with beginning bates numbers CANATEX004175, CANATEX004182, CANATEX004032, CANATEX004188, CANATEX004190,

Dated: February 24, 2023

Respectfully submitted,

/s/ J. David Cabello

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**ATTORNEYS FOR PLAINTIFF
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that counsel of record in the above-identified action have been served via e-mail with a copy of this document on February 24, 2023.

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